

1.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED

DANIEL NEIL JACKSON

January 08, 2024  
LAURA A. AUSTIN, CLERK  
BY: s/A. Beeson  
DEPUTY CLERK

v.

Case No.: 7:22-cv-00090

D. Dameron, et. al.

Defendants

PLAINTIFF'S RESPONSE TO WAIVER OF ANSWER

As I am proceeding Pro Se, and do not know if a response to the Defendants Waiver of Answer is warranted or necessary, I will err on the side of caution and provide one. At the very least, it may help to clarify some matters and expedite the process of moving forward.

- 1) The claims outlined in the initial filing, and clarified in the amended complaint, clearly fall under the Eighth Amendment, and meet the standards for serious medical need and Deliberate indifference on the part of the Defendants.
- 2) These claims, as noted above, outline violations of the Eighth Amendment rights protected by the U.S. Constitution.
- 3) Resulting damages suffered include severe mental health trauma resulting from ongoing pain and lack of sleep, further physical damage to the injured leg, 

the development of an addiction to Suboxone, and institutional charges resulting from retaliatory measures— all of which can be proven and substantiated by documentation and examination of the Plaintiff's history prior to his dealings with the defendant's.

4) While the injury to the Plaintiff's leg existed prior to the conduct of the Defendant's, their actions resulted in additional damages and losses that had not and would not have existed if the Defendant's had not shown such wanton disregard—deliberate indifference—for the Plaintiff's condition. Of significance; prior to the conduct of the Defendant's, the Plaintiff had no overwhelming financial strain and consistently held employment, his chronic pain was being treated and cared for, The Plaintiff did not have an addiction to Suboxone, his mental health and sleep patterns were much more stable, his institutional record of conduct—while not spotless— was not as severely disruptive (resulting from mental and emotional traumas suffered over the past several years, he developed substance abuse problem, and the retaliatory measures exacted against the Plaintiff), and finally, the injury to his leg was not as severe or as advanced.

5) The Plaintiff has documentation showing that he pursued and exhausted the grievance procedures available to him prior to filing

the 1983 complaint.

6) Other health care providers would not have ignored a patient's concerns, requests, and prospering treatments. Furthermore, other health care providers would not have outright refused to treat a patient's pain, or suggested that a patient should pursue "illegal drugs" to treat his pain.

Additionally, other health care providers had previously prescribed treatments, which the defendants chose to ignore or dismiss, even those treatments that were proving beneficial to the Plaintiff's needs.

7) The defendants do not fall under the protections of qualified immunity. They acted in their individual capacity and personally violated rights. Furthermore, their actions were clear violations, and on one occasion the plaintiff actually stated to Dr. Smith, "You are refusing to treat me. This is a violation of my rights." To which he made no response, but to stare at the Plaintiff blankly.

8) Redundant - see above.

9) Dr. Smith does not qualify for immunity in his individual capacity.

10) The Plaintiff is proceeding Pro se and is not individually accountable for service of the complaint.

11) Amended complaint addresses all claims of injunctive relief.

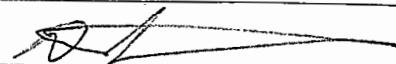
12) Redundant - see #7

13) —

JURY TRIAL DEMAND) Both parties have consented to a Magistrate  
THEREFORE, there is no justifiable reason to dismiss  
the Plaintiff's claims and I set forth a  
MOTION TO ORDER THE DEFENDANTS TO REPLY.

Respectfully submitted,

DANIEL NEIL JACKSON  
#1182398



12-30-23

Daniel [REDACTED] DEPARTMENT OF CORRECTIONS HAS  
ACC [REDACTED] NEITHER CENSORED NOR INSPECTED THIS  
ITEM AND ASSUMES NO RESPONSIBILITY  
FOR ITS CONTENT



UNITED STATES DISTRICT COURT

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